

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3085
Administrative Law Judge Division
April 4, 2002

R E S O L U T I O N

RESOLUTION ALJ 176-3085. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

ALJ/hkr

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on April 4, 2002, the following Commissioners voting favorably thereon:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President

HENRY M. DUQUE

CARL W. WOOD

GEOFFREY F. BROWN

MICHAEL R. PEEVEY

Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3085 (4/4/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-03-020 PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), in its 2002 Nuclear Decommissioning Cost Triennial Proceeding	Ratesetting	Ratesetting	YES
A02-03-022 CREATIVE INTERCONNECT COMMUNICATIONS, LLC, for a Certificate of Public Convenience and Necessity for Authority to Provide Facilities-Based and Resold Local Exchange Services in the service areas of Pacific Bell Telephone Company, Verizon California, Inc., Roseville Telephone Company and Citizens Telephone Company and Facilities-Based and Resold Interexchange Telecommunications Services statewide	Ratesetting	Ratesetting	NO
A02-03-025 ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, for an order authorizing the construction of two railroad tracks underneath the existing Anaheim Street Grade Separation structure (CPUC number 114B-17.64-A) in the City of Los Angeles, California	Ratesetting	Ratesetting	NO
A02-03-026 ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, for an order authorizing the construction of two railroad tracks underneath the existing Terminal Island Freeway Grade Separation structure (CPUC number 114B- 17.46-A) in the City of Los Angeles, California	Ratesetting	Ratesetting	NO
A02-03-027 ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, for an order authorizing the construction of the Pacific Coast Grade Separation over the ACTA main tracks and the former SPTC San Pedro Branch (CPUC number 114-16.40-A and 001-BG-501.30-A), the construction of a temporary at-grade detour crossing over the former SPTC San Pedro Branch, in the City of Los Angeles, California	Ratesetting	Ratesetting	NO
A02-03-031 SACRAMENTO REGIONAL TRANSIT DISTRICT, for an Order authorizing it to construct, maintain and operate a light rail passenger system on a structure over Florin Road in the City and County of Sacramento, State of California	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3085 (4/4/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-03-032 CALIFORNIA WATER SERVICE COMPANY (U 60-W), for an order establishing a moratorium on new service connections in excess of 250 service connections in the COAST SPRINGS WATER SYSTEM Division of the Redwood Valley District	Ratesetting	Ratesetting	YES
A02-03-034 ABDOLKARIM NOURANIAN, RAHIM FARAJI, dba SUPERFLY SHUTTLE, for approval of the Transfer of the Operating Authority held by Rahim Faraji dba Superfly Shuttle in PSC Certificate #10919 to Abdolkarim Nouranian pursuant to the Provisions of Public Utilities Code Section 851 et seq.	Ratesetting	Ratesetting	NO
A02-03-035 PACIFIC TERMINALS, LLC (PACIFIC), SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) (EDISON), for Edison to sell fuel oil pipeline facilities to Pacific and for Pacific to purchase such fuel oil pipelines and to operate them as a public utility	Ratesetting	Ratesetting	YES
A02-03-037 SESCO NET, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A02-03-039 SAN DIEGO GAS & ELECTRIC CO. (U 902-E), SOUTHERN CALIFORNIA EDISON CO. (U 338-E), for the 2002 Nuclear Decommissioning Cost Triennial Proceeding to set Contribution Levels for the Companies' Nuclear Decommissioning Trust Fund and Address Other Related Decommissioning Issues	Ratesetting	Ratesetting	YES
A02-03-040 NETARENA COMMUNICATIONS CORPORATION, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-03-041 CYNTHIA SANDERS, dba THE LINK SHUTTLE SERVICE, for Authority to Operate as a Passenger Stage Corporation between and among various points within the City and County of San Diego, California	Ratesetting	Ratesetting	NO
A02-03-042 EVANS COMMUNICATIONS, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A02-03-043 SACRAMENTO REGIONAL TRANSIT DISTRICT, for an Order authorizing it to construct, maintain and operate a light rail passenger system on a structure over Sunrise Boulevard in the County of Sacramento, State of California	Ratesetting	Ratesetting	NO
A02-03-044 EPANA NETWORKS, INC., for a Certificate of Public Convenience and Necessity to Provide Competitive Resold and Facilities-Based Local Exchange Service, IntraLATA and Intra-State InterLATA Services in the State of California	Ratesetting	Ratesetting	NO
A02-03-045 WINSTAR COMMUNICATIONS, LLC, WINSTAR WIRELESS, INC., (U 5531-C), for Authority to discontinue certain Telecommunications Services in the State of California	Ratesetting	Ratesetting	NO
A02-03-046 APPLE VALLEY RANCHOS WATER COMPANY, (U 346 W), for Authority to Increase rates charged for water service by \$2,775,000 or by 27.1% in the year 2003; by \$497,839 or 3.8% in the year 2004; and by \$507,422 or 3.7% in the year 2005.	Ratesetting	Ratesetting	YES
A02-03-047 SAN DIEGO GAS & ELECTRIC COMPANY, SOUTHERN CALIFORNIA GAS COMPANY, for Authority to Continue Funding of LEV Programs	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULE

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-03-048 SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) (EDISON), to Extend the Operation of its Electric Vehicle Adjustment Clause Mechanism and Related Accounts until the date of the Commission's Final Decision in Edison's Test Year 2003 General Rate Case Proceeding	Ratesetting	Ratesetting	YES
A02-03-049 PACIFIC GAS AND ELECTRIC COMPANY, (U 39-E), for Review of and Authorization for Recovery of Costs relating to its Low Emission Vehicle (LEV) Program for 2002 through 2005	Ratesetting	Ratesetting	YES
A02-03-050 SILVERLEAF COMMUNICATIONS INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A02-03-051 ROYAL TELECOMMM, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO